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SUBJECT: FTA LABOR MONITORING - BAHRAIN

REF: A. STATE 19631
 B. U.S. DEPARTMENT OF LABOR BAHRAIN LABOR RIGHTS
 REPORT 2005
 C. 09 MANAMA 596

1. (U) This cable provides responses requested in Ref A
(Labor Monitoring and Engagement with Free Trade Agreement
Countries).

BACKGROUND
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2. (SBU) WORKFORCE: Bahrain's workforce comprises approximately 675,000 adults, of which approximately 537,000 are foreign workers -- of these, approximately 75,000 work as domestic household employees (such as cleaners, nannies, gardeners and drivers). In addition, there may be as many as 50,000 illegal foreign workers in the country. Bahrain's total population is approximately 1,050,000, according to the GOB's Central Informatics Organization. As with most GCC countries, foreign workers account for the great majority of the overall workforce, i.e., 80 percent of the registered workforce. (Note: Information provided by the Labor Market Regulatory Authority, LMRA. End note.)

3. (SBU) LAWS: Private sector workers are, for the most part, covered by, and subject to, Bahrain's labor laws, namely the labor rights articulated in the 2002 Constitution, the 1976 Labor Law for the Private Sector, as amended, and the 2002 Workers Trade Union Law. Maritime employees are also subject to the Maritime Code, while non-military government employees are subject to the Civil Service Law (ref B). Bahrain's 75,000 domestic household employees are not covered by the existing labor laws, contributing to the widespread mistreatment and abuse, including trafficking in persons, reported in this sector. Parliament's Shura Council (upper house) is currently considering a new labor law, which, according to the Ministry of Labor (MOL), would provide a legal and regulatory framework for domestic household employees. This draft is also intended to bring Bahraini labor regulations in line with ILO guidelines, including clarifying restrictions on the right to strike in certain sectors and establishing an inter-ministerial workplace health, safety, and environment committee. It is not clear if this draft legislation will be approved prior to parliamentary elections slated for fall 2010.

4. (SBU) ILO CONVENTIONS: The GOB has ratified four of the eight fundamental ILO conventions. Among the four it has not ratified are Convention 87 (Freedom of Association and Protection of the Right to Organize) and Convention 98

(Application of the Principles of the Right to Organize and to Bargain Collectively).

15. (SBU) TRADE UNIONS: In terms of labor rights, Bahraini workers in the private sector are permitted to form and/or join a union specific to the enterprise/company they work for, and/or one of seven general profession-specific unions (including cabin crew employees, bankers, insurance sector employees, maritime workers, hospitality industry employees and nursery/daycare teachers). Employers must give their consent before a union may be established within the firm in question; under the law, employers must grant such approval. There are 67 registered unions in Bahrain, including the seven aforementioned general unions. Foreign workers in the private sector may join unions, though a Bahraini citizen must chair any union.

16. (SBU) Public sector employees may join one of the seven general unions, but they may not establish their own unions, which labor activists cite as a major shortcoming. State-owned entities such as Gulf Air, Aluminum Bahrain (Alba) and Bahrain Petroleum Company (BAPCO) are considered private sector entities under the relevant labor laws; these and other large state-controlled firms have large, often vociferous unions. All unions must join the General Federation of Workers Trade Unions of Bahrain (GFWTUB), the board of which is dominated by members of the mainstream Shia opposition party, Al Wifaq. Trade union activities, and associated workers' rights, are primarily covered by the Workers Trade Union Law (Law 33) of 2002, and "freedom to form associations and unions" is provided for in Article 27 of Bahrain's Constitution.

17. (SBU) RIGHT TO STRIKE: The law recognizes the right to strike, though that right is restricted in certain sectors deemed sensitive by the GOB, such as "security, civil defense, airports, ports, hospitals, transportation, telecommunications, electricity and water" (Law 33). According to the MOL, there were six strikes in 2009, five of which were resolved amicably with the mediation of MOL, GFWTUB and Bahrain Chamber of Commerce and Industry (BCCI) officials. The Solidarity Center's regional coordinator noted that the GOB has not used heavy-handed tactics against strikers or strike leaders since the promulgation of Law 33 and that the right to strike is well engrained within the private sector.

MIGRANT WORKERS = = = = =

18. (SBU) FOREIGN WORKERS (FORMAL SECTOR): While foreign workers in private sector firms are permitted to join trade unions, most refrain from doing so, for fear of employer reprisal, namely termination of sponsorship (i.e., the basis for legal residence in Bahrain). The Alba and Bapco unions have relatively large numbers of foreign workers, but they do not hold leadership positions.

19. (SBU) While Bahrain's Minister of Labor has pledged to end the sponsorship (kafala) system, foreign workers remain tied to a sponsor (ref C). Reforms implemented in 2009 resulted in (a) the LMRA becoming the lead agency for granting work permits to migrant workers, and (b) foreign workers gaining the right to switch employers without the employer's consent, subject to certain restrictions, a move that was welcomed by NGOs. Many foreign workers continue to experience fraud and abuse: tens of thousands of workers hold "free visas," an illegal system by which such workers pay hundreds or thousands of dollars annually to their official sponsor to work other jobs. Many workers also undergo contract substitution upon arrival in Bahrain, i.e., being compelled to sign a new contract with lower wages than previously agreed. (Note: The GFWTUB estimates that up to half of all migrant workers in Bahrain undergo contract substitution. End note.) Low-paid manual laborers in construction and related sectors often suffer from abuses common to domestic household employees)- see below.

10. (SBU) FOREIGN WORKERS (INFORMAL SECTOR): Domestic

household employees, such as cleaners, nannies, cooks, butlers, drivers and gardeners, are not covered by Bahrain's existing labor laws. In many cases, they are subject to mistreatment and abuse, including trafficking in persons as defined by the UN Palermo Protocols and the United States' 2000 Trafficking Victims Protection Act, as amended. The abuses are well documented by reputable, international NGOs, by the Migrant Workers Protection Society (MWPS) in Bahrain, and by Embassy officers' numerous interviews with foreign workers, including those residing in shelters run by source countries' embassies. Common abuses include: contract substitution, withholding of salaries, debt bondage to manpower agencies, no days off, confinement to homes, lack of adequate medical care, and withholding of passports and other forms of identification. There have been numerous reports of physical violence, including rape. MWPS and diplomatic sources state that law enforcement and judiciary officials tend to side with Bahraini employers in those few cases when domestic employees report abuse. The GOB passed an anti-human trafficking law in 2008; to date the GOB has completed one prosecution using this law. Other prosecutions take place under older laws against bondage, larceny, assault, etc. (Note: For further information on the situation concerning domestic employees, see post's upcoming submission for the 2010 Trafficking in Persons Report (septel). End note.)

¶11. (SBU) CHILD LABOR: Child labor in Bahrain is infrequent, and tends to be in family-owned and operated shops only. The Labor Law of 1976 generally prohibits the employment of children under the age of 16. The GOB cites the lack of a child labor problem as the reason for not having a comprehensive policy to eliminate the worst forms of child labor. (Note: For further information, see septel. End note.)

¶12. (SBU) ACTORS: The key organizations involved in labor issues include: the MOL, the Ministry of Commerce and Industry, the LMRA, the BCCI, the GFWTUB, trade unions, the MWPS, human rights NGOs such as the Bahrain Human Rights Society and the Bahrain Center for Human Rights, and source countries' embassies. Post's primary interlocutor at the Ministry of Labor is Ms. Hanan Hassan Al-Khalifa, the Director of Labor Relations.

USG COOPERATION = = = = =

¶13. (SBU) CURRENT PROGRAMS: The USG DOL funds a regional ILO program that advises the GFWTUB and the GOB. The Department of State's MEPI and G/TIP programs fund the regional activities of the Solidarity Center, which advises the GFWTUB and its affiliates and provides limited support to the MWPS. G/TIP also provides funding to a regional IOM program focused on migrant workers and anti-human trafficking initiatives.

¶14. (SBU) Possible USG-funded interventions going forward might include:

-- Support for initiatives that contribute to mainstreaming migrant workers' rights into Bahraini unions' activities. Such support would need to be indirect, i.e., via an international organization or NGO, and would need to be sensitive to Bahraini workers' concerns about non-Bahrainis assuming leadership positions in trade unions.

-- Capacity building of the GFWTUB's ability to monitor the GOB's implementation of laws and regulations pertaining to workers' rights, including those relating to the Bahrain-U.S. FTA.

-- A project to formalize existing employer-trade union agreements and understandings into a collective understanding between the GFWTUB and the BCCI, which could build on the MOU recently agreed to by the two entities concerning collective bargaining and dispute resolution.

-- In light of the ILO's tentative plan to prepare an

international convention on domestic employees' rights in 2011-12, an awareness campaign on this issue could commence in 2010.

-- Workers' rights awareness campaigns targeting youth and student groups.

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